

AMENDED IN ASSEMBLY SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 1, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 567

**Introduced by Senator Jackson
(Coauthors: Senators Hancock and Steinberg)**

February 22, 2013

An act to amend Sections 17190 and 30900 ~~of~~ *of, and to add Section 30903 to*, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 567, as amended, Jackson. Firearms: shotguns.

(1) Existing law, for purposes of specified provisions, defines a shotgun as a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles or a single projectile for each pull of the trigger.

This bill would revise the definition of a shotgun to delete the requirement that it be intended to be fired from the shoulder, and would clarify that the projectile may be fired through either a rifled bore or a smooth bore. The bill would state that this definition does not include handguns, except as specified. The bill would also delete an erroneous cross-reference.

(2) Existing law requires that, with specified exceptions, any person who, prior to January 1, 2001, lawfully possessed an assault weapon prior to the date it was defined as an assault weapon, and which was not specified as an assault weapon at the time of lawful possession, register the firearm with the Department of Justice. Existing law defines a shotgun with a revolving cylinder as an assault weapon. Existing law permits the Department of Justice to charge a fee for registration of up to \$20 per person but not to exceed the actual processing costs of the department. Existing law, after the department establishes fees sufficient to reimburse the department for processing costs, requires fees charged to increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act. Existing law, the Administrative Procedure Act, establishes the requirements for the adoption, publication, review, and implementation of regulations by state agencies.

This bill would require any person who, from January 1, 2001, to December 31, 2013, inclusive, lawfully acquired a shotgun with a revolving cylinder, as defined, including those firearms subject to the revised definition of "shotgun," to register the firearm before July 1, 2015, with the department pursuant to those procedures that the department may establish. *The bill would prohibit an individual from being penalized for a violation of that requirement prior to July 1, 2015.* The bill would require registrations to be submitted electronically via the Internet, as specified. The bill would require the registration to contain specified information, including, but not limited to, a description of the firearm that identifies it uniquely and specified information about the registrant. The bill would authorize the department to adopt regulations for the purpose of carrying out those provisions and would exempt those regulations from the Administrative Procedure Act. The bill would authorize the department to charge a fee for registration of each assault weapon of up to \$20 per firearm but not to exceed the reasonable processing costs of the department, as specified. The bill would require payment be made by debit or credit card, as specified. The bill would also make technical and conforming changes.

By changing the definition of an existing crime, this bill imposes a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The Penal Code does not currently include a consistent
4 definition of the term “shotgun.”

5 (b) Section 17190 of the Penal Code currently defines a shotgun
6 as “a weapon designed or redesigned, made or remade, and
7 intended to be fired from the shoulder and designed or redesigned
8 and made or remade to use the energy of the explosive in a fixed
9 shotgun shell to fire through a smooth bore either a number of
10 projectiles (ball shot) or a single projectile for each pull of the
11 trigger.”

12 (c) Section 16460 of the Penal Code, however, does not describe
13 a shotgun as being capable of being shot from the shoulder, but
14 does describe shotguns as having a rifled bore. Specifically, Section
15 16460 of the Penal Code exempts “shotguns” with a “smooth or
16 rifled bore” from the destructive device ban.

17 (d) Section 12021.5 of the Penal Code further confuses the
18 definition of shotgun by stating that a “shotgun” shall have the
19 same meaning as that of Section 17190 of the Penal Code and that
20 a “detachable shotgun magazine” is a device that may be attached
21 to a “firearm that is designed or redesigned to fire a fixed shotgun
22 shell through a smooth or rifled bore.”

23 (e) The intent of this act is to create a consistent definition of
24 the term “shotgun” in the Penal Code. Consistency can be achieved
25 by changing the definition in Section 17190 of the Penal Code.

26 (f) The intent of this act is not to ban handguns, nor is it intended
27 to limit the use of “bird shot” or “snake shot,” which is ammunition
28 specifically designed for rodent, snake, or bird control.

29 SEC. 2. Section 17190 of the Penal Code is amended to read:

30 17190. As used in Sections 16530, 16640, 16870, and 17180,
31 Sections 17720 to 17730, inclusive, Section 17740, Section 30215,
32 and Article 1 (commencing with Section 33210) of Chapter 8 of
33 Division 10 of Title 4, “shotgun” means a weapon designed or

1 redesigned, made or remade, and designed or redesigned and made
2 or remade to use the energy of the explosive in a fixed shotgun
3 shell to fire through a smooth bore or rifled bore either a number
4 of projectiles (ball shot) or a single projectile for each pull of the
5 trigger. Except as used in ~~sections~~ Sections 16530 and 16640, and
6 as used in Section 17180, only as that ~~Section~~ section applies to
7 Sections 16530 and 16640, this definition does not include
8 handguns.

9 SEC. 3. Section 30900 of the Penal Code is amended to read:

10 30900. (a) ~~(1)~~ Any person who, prior to June 1, 1989, lawfully
11 possessed an assault weapon, as defined in former Section 12276,
12 as added by Section 3 of Chapter 19 of the Statutes of 1989, shall
13 register the firearm by January 1, 1991, and any person who
14 lawfully possessed an assault weapon prior to the date it was
15 specified as an assault weapon pursuant to former Section 12276.5,
16 as added by Section 3 of Chapter 19 of the Statutes of 1989 or as
17 amended by Section 1 of Chapter 874 of the Statutes of 1990 or
18 Section 3 of Chapter 954 of the Statutes of 1991, shall register the
19 firearm within 90 days with the Department of Justice pursuant to
20 those procedures that the department may establish.

21 ~~(2)~~

22 (b) Except as provided in Section 30600, any person who
23 lawfully possessed an assault weapon prior to the date it was
24 defined as an assault weapon pursuant to former Section 12276.1,
25 as it read in Section 7 of Chapter 129 of the Statutes of 1999, and
26 which was not specified as an assault weapon under former Section
27 12276, as added by Section 3 of Chapter 19 of the Statutes of 1989
28 or as amended at any time before January 1, 2001, or former
29 Section 12276.5, as added by Section 3 of Chapter 19 of the
30 Statutes of 1989 or as amended at any time before January 1, 2001,
31 shall register the firearm by January 1, 2001, with the department
32 pursuant to those procedures that the department may establish.

33 ~~(3)~~

34 (c) The registration shall contain a description of the firearm
35 that identifies it uniquely, including all identification marks, the
36 full name, address, date of birth, and thumbprint of the owner, and
37 any other information that the department may deem appropriate.

38 ~~(b) (1) Any person who, from January 1, 2001, to December~~
39 ~~31, 2013, inclusive, lawfully acquired a shotgun with a revolving~~
40 ~~cylinder, as defined in Sections 17190 and 30515 and who, after~~

1 January 1, 2014, lawfully possesses that firearm, shall register the
2 firearm before July 1, 2015, with the department pursuant to those
3 procedures that the department may establish by regulation
4 pursuant to paragraph (4):

5 (2) Registrations shall be submitted electronically via the
6 Internet utilizing a public-facing application made available by
7 the department.

8 (3) The registration shall contain a description of the firearm
9 that identifies it uniquely, including all identification marks, the
10 date that the firearm was acquired, the name and address of the
11 individual or business from whom the firearm was acquired, the
12 registrant's full name, address, telephone number, date of birth,
13 sex, height, weight, eye color, hair color, and driver's license or
14 California identification card number.

15 (4) The department may establish regulations for the purpose
16 of implementing this subdivision. These regulations shall be
17 exempt from the Administrative Procedure Act.

18 (e)

19 (d) The department may charge a fee for registration of each
20 firearm of up to twenty dollars (\$20) *per person* but not to exceed
21 the reasonable processing costs of the department. After the
22 department establishes fees sufficient to reimburse the department
23 for reasonable processing costs, fees charged shall increase at a
24 rate not to exceed the department's reasonable processing costs.
25 The fees shall be paid by debit or credit card at the time the
26 electronic registration is submitted to the department and shall be
27 deposited into the Dealers' Record of Sale Special Account.

28 *SEC. 4. Section 30903 is added to the Penal Code, to read:*

29 30903. (a) Any person who, from January 1, 2001, to
30 December 31, 2013, inclusive, lawfully acquired a shotgun with
31 a revolving cylinder, as defined in Sections 17190 and 30515 and
32 who, after January 1, 2014, lawfully possesses that firearm, shall
33 register the firearm before July 1, 2015, with the department
34 pursuant to those procedures that the department establishes by
35 regulation pursuant to subdivision (d).

36 (b) Registrations shall be submitted either electronically via
37 the Internet utilizing a public-facing application made available
38 by the department, or through a licensed firearm dealer.

39 (c) The registration shall contain a description of the firearm
40 that identifies it uniquely, including all identification marks, the

1 *date that the firearm was acquired, the full name and address of*
2 *the individual from whom, or the business from which, the firearm*
3 *was acquired, the registrant's full name, address, telephone*
4 *number, date of birth, sex, height, weight, eye color, hair color,*
5 *and California driver's license or California identification card*
6 *number.*

7 *(d) The department shall establish rules and regulations for the*
8 *purpose of implementing this subdivision. These regulations shall*
9 *be exempt from the Administrative Procedure Act (Chapter 3.5*
10 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
11 *2 of the Government Code).*

12 *(e) The department may charge a fee for registration of up to*
13 *twenty dollars (\$20) per person but not to exceed the reasonable*
14 *processing costs of the department. After the department*
15 *establishes fees sufficient to reimburse the department for*
16 *reasonable processing costs, fees charged shall increase at a rate*
17 *not to exceed the department's reasonable processing costs. The*
18 *fees shall be paid by debit or credit card at the time the electronic*
19 *registration is submitted to the department and shall be deposited*
20 *into the Dealers' Record of Sale Special Account.*

21 *(f) No individual shall be penalized for a violation of subdivision*
22 *(a) prior to July 1, 2015.*

23 ~~SEC. 4.~~

24 *SEC. 5. No reimbursement is required by this act pursuant to*
25 *Section 6 of Article XIII B of the California Constitution because*
26 *the only costs that may be incurred by a local agency or school*
27 *district will be incurred because this act creates a new crime or*
28 *infraction, eliminates a crime or infraction, or changes the penalty*
29 *for a crime or infraction, within the meaning of Section 17556 of*
30 *the Government Code, or changes the definition of a crime within*
31 *the meaning of Section 6 of Article XIII B of the California*
32 *Constitution.*